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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,543	03/30/2000	Edward A. Hubbard	BAY3:002	8287

7590

03/26/2003

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EXAMINER

COULTER, KENNETH R

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 03/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.  
09/538,543

Applicant(s)  
Edward A. Hubbard

Examiner  
Kenneth R. Coulter

Art Unit  
2141



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1 - 52 are rejected under 35 U.S.C. 102(e) as being disclosed by Xu (U.S. Pat. No. 6,418,462) (Global Sideband Service Distributed Computing Method).

2.1 Regarding claim 1, Xu discloses a method of operating a distributed parallel processing system, comprising:

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providing a server system (Fig. 2);

coupling the server system to a network, the network being connectable to distributed devices (Fig. 2);

providing an incentive to couple the distributed devices to the server system through the network so that the distributed devices are capable of performing workloads for the distributed parallel processing system (Abstract; Fig. 2; col. 6, lines 23 - 40);

identifying a workload capability factor for a plurality of the distributed devices (Abstract; Fig. 2; col. 6, lines 23 - 40); and

utilizing the identified workload capability factor within the server system (Abstract; Fig. 2; col. 6, lines 23 - 40).

2.2 Per claims 2 - 13, Xu teaches the particulars involving rewards, contests, monetary payments (Abstract; Fig. 2; col. 6, lines 23 - 40).

2.3 Regarding claims 14 - 28, Xu discloses the particulars involving capabilities (Abstract; Fig. 2; col. 6, lines 23 - 40) and network (Abstract; Fig. 2; col. 6, lines 23 - 40).

2.4 Per claims 29 - 52, the rejection of claims 1 - 28 under 35 USC 102(e) (paragraphs 2.1 - 2.3 above) applies fully.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 - 52 are rejected under 35 U.S.C. 102(e) as being disclosed by Regev (Economic Oriented CPU Sharing System for the Internet; July 1998)

4.1 Regarding claim 1, Regev discloses a method of operating a distributed parallel processing system, comprising:

providing a server system (pp. 7-11);

coupling the server system to a network, the network being connectable to distributed devices (pp. 7-11);

providing an incentive to couple the distributed devices to the server system through the network so that the distributed devices are capable of performing workloads for the distributed parallel processing system (pp. 7-11);

identifying a workload capability factor for a plurality of the distributed devices (pp. 7-11);

and

utilizing the identified workload capability factor within the server system (pp. 7-11).

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4.2 Per claims 2 - 13, Regev teaches the particulars involving rewards, contests, monetary payments (pp. 7-11).

4.3 Regarding claims 14 - 28, Regev discloses the particulars involving capabilities (pp. 7-11) and network (pp. 7-11).

4.4 Per claims 29 - 52, the rejection of claims 1 - 28 under 35 USC 102(b) (paragraphs 4.1 - 4.3 above) applies fully.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Coulter whose telephone number is (703) 305-8447.

KENNETH R. COULTER  
PRIMARY EXAMINER  


krc

March 24, 2003